

AMENDED IN SENATE JANUARY 26, 2012

AMENDED IN SENATE MAY 24, 2011

AMENDED IN SENATE MAY 9, 2011

AMENDED IN SENATE MARCH 30, 2011

## SENATE BILL

No. 924

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**Introduced by ~~Senator~~ *Senators Price, Walters, and Steinberg*  
(~~Coauthors: Senators Emmerson, Runner, and Strickland~~)  
(Coauthors: Assembly Members ~~Bill Berryhill, Chesbro, Knight,~~  
~~Morrell, Norby, and Silva~~)**

February 18, 2011

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An act to amend ~~Section 2660~~ *Sections 2406 and 2690* of, and to add ~~Section~~ *Sections 2406.5, 2620.1, and 2694.5* to, the Business and Professions Code, *and to amend Section 13401.5 of the Corporations Code*, relating to ~~physical therapists~~ *healing arts*.

### LEGISLATIVE COUNSEL'S DIGEST

SB 924, as amended, ~~Walters~~ *Price*. Physical therapists: direct access to ~~services~~. *services: professional corporations*.

#### Existing

(1) *Existing* law, the Physical Therapy Practice Act, creates the Physical Therapy Board of California and makes it responsible for the licensure and regulation of physical therapists. The act defines the term “physical therapy” for its purposes and makes it a crime to violate any of its provisions. ~~The act authorizes the board to suspend, revoke, or impose probationary conditions on a license, certificate, or approval issued under the act for unprofessional conduct, as specified.~~

This bill would specify that patients may access physical therapy treatment directly, and would, in those circumstances, require a physical

therapist to refer his or her patient to another specified healing arts practitioner if the physical therapist has reason to believe the patient has a condition requiring treatment or services beyond that scope of practice, ~~to disclose to the patient any financial interest he or she has in treating the patient,~~ and, with the patient's written authorization, to notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient. The bill would prohibit a physical therapist from treating a patient beyond ~~a 30-day period~~ *30 business days or 12 visits, whichever occurs first*, unless ~~the patient has obtained a diagnosis from a physician and surgeon~~ *physical therapist receives a specified authorization from a person with a physician and surgeon's certificate. The bill would require a physical therapist, prior to the initiation of treatment services, to provide a patient with a specified notice concerning the limitations on the direct treatment services.* ~~The bill would provide that failure to comply with these provisions constitutes unprofessional conduct subject to disciplinary action by the board.~~

*(2) Existing law regulating professional corporations provides that certain healing arts practitioners may be shareholders, officers, directors, or professional employees of a medical corporation or a podiatric medical corporation, subject to certain limitations.*

*This bill would add licensed physical therapists and licensed occupational therapists to the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of those corporations. The bill would also provide that specified healing arts licensees may be shareholders, officers, directors, or professional employees of a physical therapy corporation. The bill would require, except as specified, that a medical corporation, podiatry corporation, and physical therapy corporation provide patients with a specified disclosure notifying them that they may seek physical therapy treatment services from any physical therapy provider. The bill would also make conforming changes to related provisions.*

Because the bill would specify additional requirements under the Physical Therapy Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that an  
2 individual's access to early intervention to physical therapy  
3 treatment may decrease the duration of a disability, reduce pain,  
4 and lead to a quicker recovery.

5 SEC. 2. *Section 2406 of the Business and Professions Code is*  
6 *amended to read:*

7 2406. A medical corporation or podiatry corporation is a  
8 corporation ~~which~~ *that* is authorized to render professional services,  
9 as defined in Sections 13401 and 13401.5 of the Corporations  
10 Code, so long as that corporation and its shareholders, officers,  
11 directors, and employees rendering professional services who are  
12 physicians *and surgeons*, psychologists, registered nurses,  
13 optometrists, podiatrists, *chiropractors, acupuncturists,*  
14 *naturopathic doctors, physical therapists, occupational therapists,*  
15 or, in the case of a medical corporation only, physician assistants,  
16 *marriage and family therapists, or clinical social workers,* are in  
17 compliance with the Moscone-Knox Professional Corporation Act,  
18 the provisions of this article, and all other statutes and regulations  
19 now or hereafter enacted or adopted pertaining to the corporation  
20 and the conduct of its affairs.

21 With respect to a medical corporation or podiatry corporation,  
22 the governmental agency referred to in the Moscone-Knox  
23 Professional Corporation Act is the ~~Division of Licensing~~ *board*.

24 SEC. 3. *Section 2406.5 is added to the Business and Professions*  
25 *Code, to read:*

26 2406.5. (a) *A medical corporation or podiatry corporation*  
27 *that is authorized to render professional services, as defined in*  
28 *Sections 13401 and 13401.5 of the Corporations Code, shall*  
29 *disclose to its patients, orally and in writing, when initiating any*  
30 *physical therapy treatment services, that the patient may seek*  
31 *physical therapy treatment services from a physical therapy*  
32 *provider of his or her choice who may not necessarily be employed*  
33 *by the medical or podiatry corporation.*

34 (b) *This disclosure requirement shall not apply to any medical*  
35 *corporation that contracts with a health care service plan with a*

1 *license issued pursuant to the Knox-Keene Health Care Service*  
2 *Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340)*  
3 *of Division 2 of the Health and Safety Code) if the licensed health*  
4 *care service plan is also exempt from federal taxation pursuant to*  
5 *Section 501(c)(3) of the Internal Revenue Code.*

6 ~~SEC. 2.~~

7 SEC. 4. Section 2620.1 is added to the Business and Professions  
8 Code, to read:

9 2620.1. (a) In addition to receiving wellness and evaluation  
10 services from a physical therapist, a person may initiate physical  
11 therapy treatment directly from a licensed physical therapist  
12 provided that the treatment is within the scope of practice of  
13 physical therapists, as defined in Section 2620, and that all the  
14 following conditions are met:

15 (1) If, at any time, the physical therapist has reason to believe  
16 that the patient has signs or symptoms of a condition that requires  
17 treatment beyond the scope of practice of a physical therapist, the  
18 physical therapist shall refer the patient to a person holding a  
19 physician and surgeon's certificate issued by the Medical Board  
20 of California or by the Osteopathic Medical Board of California  
21 or to a person licensed to practice dentistry, podiatric medicine,  
22 or chiropractic.

23 (2) The physical therapist shall ~~disclose to the patient any~~  
24 ~~financial interest he or she has in treating the patient and shall~~  
25 comply with Article 6 (commencing with Section 650) of Chapter  
26 1 of Division 2.

27 (3) With the patient's written authorization, the physical  
28 therapist shall notify the patient's physician and surgeon, if any,  
29 that the physical therapist is treating the patient.

30 (4) *With respect to a patient initiating physical therapy treatment*  
31 *services directly from a physical therapist, the physical therapist*  
32 *shall not continue treating that patient beyond 30 business days*  
33 *or 12 visits, whichever occurs first, without receiving, from a*  
34 *person holding a physician and surgeon's certificate from the*  
35 *Medical Board of California or the Osteopathic Medical Board*  
36 *of California, a dated signature on the physical therapist's plan*  
37 *of care indicating approval of the physical therapist's plan of care.*  
38 *Approval of the physical therapist's plan of care shall include an*  
39 *appropriate patient examination by the person holding a physician*  
40 *and surgeon's certificate from the Medical Board of California*

1 *or the Osteopathic Medical Board of California. For purposes of*  
 2 *this paragraph, “business day” means any calendar day except*  
 3 *Saturday, Sunday, or the following business holidays: New Year’s*  
 4 *Day, Washington’s Birthday, Memorial Day, Independence Day,*  
 5 *Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and*  
 6 *Christmas Day.*

7 (b) The conditions in paragraphs (1), (2), ~~and (3), and (4)~~ of  
 8 subdivision (a) do not apply to a physical therapist when providing  
 9 evaluation or wellness physical therapy services to a patient as  
 10 described in subdivision (a) of Section 2620 *or treatment provided*  
 11 *upon referral or diagnosis by a physician and surgeon, podiatrist,*  
 12 *dentist, chiropractor, or other appropriate health care provider*  
 13 *acting within his or her scope of practice. Nothing in this*  
 14 *subdivision shall be construed to alter the disclosure requirements*  
 15 *of Section 2406.5.*

16 (c) Nothing in this section shall be construed to expand or  
 17 modify the scope of practice for physical therapists set forth in  
 18 Section 2620, including the prohibition on a physical therapist  
 19 diagnosing a disease.

20 (d) Nothing in this section shall be construed to require a health  
 21 care service plan, insurer, *workers’ compensation insurance plan,*  
 22 *or any other person or entity, including, but not limited to, a state*  
 23 *program or state employer, to provide coverage for direct access*  
 24 *to treatment by a physical therapist.*

25 ~~(e) A physical therapist shall not continue treating a patient~~  
 26 ~~beyond a 30-day period, unless the patient has obtained a diagnosis~~  
 27 ~~by a physician and surgeon.~~

28 (e) *When a person initiates physical therapy treatment services*  
 29 *directly pursuant to this section, the physical therapist shall not*  
 30 *perform physical therapy treatment services without first providing*  
 31 *the following written notice, orally and in writing, on one page,*  
 32 *in at least 14-point type, and obtaining a patient signature on the*  
 33 *notice:*

34  
 35 *Direct Physical Therapy Treatment Services*  
 36

37 *You are receiving direct physical therapy treatment services*  
 38 *from an individual who is not a physician and surgeon, but who*  
 39 *is a physical therapist licensed by the Physical Therapy Board of*  
 40 *California.*

*If you have received direct physical therapy treatment services for a duration of 30 business days or 12 visits, whichever occurs first, from a physical therapist, it may constitute unprofessional conduct for that physical therapist or for another physical therapist to provide direct physical therapy treatment services without receiving from a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California a dated signature on the physical therapist's plan of care, indicating approval of the physical therapist's plan of care.*

- (a) Advertising in violation of Section 17500.
- (b) Fraud in the procurement of any license under this chapter.
- (c) Procuring or aiding or offering to procure or aid in criminal abortion.
- (d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.
- (e) Habitual intemperance.

1 ~~(f) Addiction to the excessive use of any habit-forming drug.~~

2 ~~(g) Gross negligence in his or her practice as a physical therapist~~  
3 ~~or physical therapist assistant.~~

4 ~~(h) Conviction of a violation of any of the provisions of this~~  
5 ~~chapter or of the Medical Practice Act, or violating, or attempting~~  
6 ~~to violate, directly or indirectly, or assisting in or abetting the~~  
7 ~~violating of, or conspiring to violate any provision or term of this~~  
8 ~~chapter or of the Medical Practice Act.~~

9 ~~(i) The aiding or abetting of any person to violate this chapter~~  
10 ~~or any regulations duly adopted under this chapter.~~

11 ~~(j) The aiding or abetting of any person to engage in the unlawful~~  
12 ~~practice of physical therapy.~~

13 ~~(k) The commission of any fraudulent, dishonest, or corrupt act~~  
14 ~~that is substantially related to the qualifications, functions, or duties~~  
15 ~~of a physical therapist or physical therapist assistant.~~

16 ~~(l) Except for good cause, the knowing failure to protect patients~~  
17 ~~by failing to follow infection control guidelines of the board,~~  
18 ~~thereby risking transmission of blood-borne infectious diseases~~  
19 ~~from licensee to patient, from patient to patient, and from patient~~  
20 ~~to licensee. In administering this subdivision, the board shall~~  
21 ~~consider referencing the standards, regulations, and guidelines of~~  
22 ~~the State Department of Public Health developed pursuant to~~  
23 ~~Section 1250.11 of the Health and Safety Code and the standards,~~  
24 ~~regulations, and guidelines pursuant to the California Occupational~~  
25 ~~Safety and Health Act of 1973 (Part 1 (commencing with Section~~  
26 ~~6300) of Division 5 of the Labor Code) for preventing the~~  
27 ~~transmission of HIV, hepatitis B, and other blood-borne pathogens~~  
28 ~~in health care settings. As necessary, the board shall consult with~~  
29 ~~the Medical Board of California, the California Board of Podiatric~~  
30 ~~Medicine, the Dental Board of California, the Board of Registered~~  
31 ~~Nursing, and the Board of Vocational Nursing and Psychiatric~~  
32 ~~Technicians of the State of California, to encourage appropriate~~  
33 ~~consistency in the implementation of this subdivision.~~

34 ~~The board shall seek to ensure that licensees are informed of the~~  
35 ~~responsibility of licensees and others to follow infection control~~  
36 ~~guidelines, and of the most recent scientifically recognized~~  
37 ~~safeguards for minimizing the risk of transmission of blood-borne~~  
38 ~~infectious diseases.~~

39 ~~(m) The commission of verbal abuse or sexual harassment.~~

40 ~~(n) Failure to comply with the provisions of Section 2620.1.~~

1     *SEC. 5. Section 2690 of the Business and Professions Code is*  
2     *amended to read:*

3     2690. A physical therapy corporation is a corporation that is  
4     authorized to render professional services, as defined in ~~Section~~  
5     *Sections 13401 and 13401.5 of the Corporations Code*, so long as  
6     that corporation and its shareholders, officers, directors, and  
7     employees rendering professional services who are physical  
8     therapists, *physicians and surgeons, podiatrists, acupuncturists,*  
9     *naturopathic doctors, occupational therapists, speech-language*  
10    *pathologists, audiologists, registered nurses, psychologists, and*  
11    *physician assistants* are in compliance with the Moscone-Knox  
12    Professional Corporation Act, this article, and all other statutes  
13    and regulations now or hereafter enacted or adopted pertaining to  
14    the corporation and the conduct of its affairs.

15    With respect to a physical therapy corporation, the governmental  
16    agency referred to in the Moscone-Knox Professional Corporation  
17    Act is the ~~Physical Therapy Board of California~~ *board*.

18    *SEC. 6. Section 2694.5 is added to the Business and Professions*  
19    *Code, to read:*

20    2694.5. *A physical therapy corporation that is authorized to*  
21    *render professional services, as defined in Sections 13401 and*  
22    *13401.5 of the Corporations Code, shall disclose to its patients,*  
23    *orally and in writing, when initiating any physical therapy*  
24    *treatment services, that the patient may seek physical therapy*  
25    *treatment services from a physical therapy provider of his or her*  
26    *choice who may not necessarily be employed by the physical*  
27    *therapy corporation.*

28    *SEC. 7. Section 13401.5 of the Corporations Code is amended*  
29    *to read:*

30    13401.5. Notwithstanding subdivision (d) of Section 13401  
31    and any other provision of law, the following licensed persons  
32    may be shareholders, officers, directors, or professional employees  
33    of the professional corporations designated in this section so long  
34    as the sum of all shares owned by those licensed persons does not  
35    exceed 49 percent of the total number of shares of the professional  
36    corporation so designated herein, and so long as the number of  
37    those licensed persons owning shares in the professional  
38    corporation so designated herein does not exceed the number of  
39    persons licensed by the governmental agency regulating the  
40    designated professional corporation:



- 1 (a) Medical corporation.
- 2 (1) Licensed doctors of podiatric medicine.
- 3 (2) Licensed psychologists.
- 4 (3) Registered nurses.
- 5 (4) Licensed optometrists.
- 6 (5) Licensed marriage and family therapists.
- 7 (6) Licensed clinical social workers.
- 8 (7) Licensed physician assistants.
- 9 (8) Licensed chiropractors.
- 10 (9) Licensed acupuncturists.
- 11 (10) Naturopathic doctors.
- 12 (11) Licensed professional clinical counselors.
- 13 (12) *Licensed physical therapists.*
- 14 (13) *Licensed occupational therapists.*
- 15 (b) Podiatric medical corporation.
- 16 (1) Licensed physicians and surgeons.
- 17 (2) Licensed psychologists.
- 18 (3) Registered nurses.
- 19 (4) Licensed optometrists.
- 20 (5) Licensed chiropractors.
- 21 (6) Licensed acupuncturists.
- 22 (7) Naturopathic doctors.
- 23 (8) *Licensed physical therapists.*
- 24 (9) *Licensed occupational therapists.*
- 25 (c) Psychological corporation.
- 26 (1) Licensed physicians and surgeons.
- 27 (2) Licensed doctors of podiatric medicine.
- 28 (3) Registered nurses.
- 29 (4) Licensed optometrists.
- 30 (5) Licensed marriage and family therapists.
- 31 (6) Licensed clinical social workers.
- 32 (7) Licensed chiropractors.
- 33 (8) Licensed acupuncturists.
- 34 (9) Naturopathic doctors.
- 35 (10) Licensed professional clinical counselors.
- 36 (d) Speech-language pathology corporation.
- 37 (1) Licensed audiologists.
- 38 (e) Audiology corporation.
- 39 (1) Licensed speech-language pathologists.
- 40 (f) Nursing corporation.

- 1 (1) Licensed physicians and surgeons.
- 2 (2) Licensed doctors of podiatric medicine.
- 3 (3) Licensed psychologists.
- 4 (4) Licensed optometrists.
- 5 (5) Licensed marriage and family therapists.
- 6 (6) Licensed clinical social workers.
- 7 (7) Licensed physician assistants.
- 8 (8) Licensed chiropractors.
- 9 (9) Licensed acupuncturists.
- 10 (10) Naturopathic doctors.
- 11 (11) Licensed professional clinical counselors.
- 12 (g) Marriage and family therapist corporation.
- 13 (1) Licensed physicians and surgeons.
- 14 (2) Licensed psychologists.
- 15 (3) Licensed clinical social workers.
- 16 (4) Registered nurses.
- 17 (5) Licensed chiropractors.
- 18 (6) Licensed acupuncturists.
- 19 (7) Naturopathic doctors.
- 20 (8) Licensed professional clinical counselors.
- 21 (h) Licensed clinical social worker corporation.
- 22 (1) Licensed physicians and surgeons.
- 23 (2) Licensed psychologists.
- 24 (3) Licensed marriage and family therapists.
- 25 (4) Registered nurses.
- 26 (5) Licensed chiropractors.
- 27 (6) Licensed acupuncturists.
- 28 (7) Naturopathic doctors.
- 29 (8) Licensed professional clinical counselors.
- 30 (i) Physician assistants corporation.
- 31 (1) Licensed physicians and surgeons.
- 32 (2) Registered nurses.
- 33 (3) Licensed acupuncturists.
- 34 (4) Naturopathic doctors.
- 35 (j) Optometric corporation.
- 36 (1) Licensed physicians and surgeons.
- 37 (2) Licensed doctors of podiatric medicine.
- 38 (3) Licensed psychologists.
- 39 (4) Registered nurses.
- 40 (5) Licensed chiropractors.

- 1 (6) Licensed acupuncturists.
- 2 (7) Naturopathic doctors.
- 3 (k) Chiropractic corporation.
- 4 (1) Licensed physicians and surgeons.
- 5 (2) Licensed doctors of podiatric medicine.
- 6 (3) Licensed psychologists.
- 7 (4) Registered nurses.
- 8 (5) Licensed optometrists.
- 9 (6) Licensed marriage and family therapists.
- 10 (7) Licensed clinical social workers.
- 11 (8) Licensed acupuncturists.
- 12 (9) Naturopathic doctors.
- 13 (10) Licensed professional clinical counselors.
- 14 (l) Acupuncture corporation.
- 15 (1) Licensed physicians and surgeons.
- 16 (2) Licensed doctors of podiatric medicine.
- 17 (3) Licensed psychologists.
- 18 (4) Registered nurses.
- 19 (5) Licensed optometrists.
- 20 (6) Licensed marriage and family therapists.
- 21 (7) Licensed clinical social workers.
- 22 (8) Licensed physician assistants.
- 23 (9) Licensed chiropractors.
- 24 (10) Naturopathic doctors.
- 25 (11) Licensed professional clinical counselors.
- 26 (m) Naturopathic doctor corporation.
- 27 (1) Licensed physicians and surgeons.
- 28 (2) Licensed psychologists.
- 29 (3) Registered nurses.
- 30 (4) Licensed physician assistants.
- 31 (5) Licensed chiropractors.
- 32 (6) Licensed acupuncturists.
- 33 (7) Licensed physical therapists.
- 34 (8) Licensed doctors of podiatric medicine.
- 35 (9) Licensed marriage and family therapists.
- 36 (10) Licensed clinical social workers.
- 37 (11) Licensed optometrists.
- 38 (12) Licensed professional clinical counselors.
- 39 (n) Dental corporation.
- 40 (1) Licensed physicians and surgeons.

- 1 (2) Dental assistants.
- 2 (3) Registered dental assistants.
- 3 (4) Registered dental assistants in extended functions.
- 4 (5) Registered dental hygienists.
- 5 (6) Registered dental hygienists in extended functions.
- 6 (7) Registered dental hygienists in alternative practice.
- 7 (o) Professional clinical counselor corporation.
- 8 (1) Licensed physicians and surgeons.
- 9 (2) Licensed psychologists.
- 10 (3) Licensed clinical social workers.
- 11 (4) Licensed marriage and family therapists.
- 12 (5) Registered nurses.
- 13 (6) Licensed chiropractors.
- 14 (7) Licensed acupuncturists.
- 15 (8) Naturopathic doctors.
- 16 (p) *Physical therapy corporation.*
- 17 (1) *Licensed physicians and surgeons.*
- 18 (2) *Licensed doctors of podiatric medicine.*
- 19 (3) *Licensed acupuncturists.*
- 20 (4) *Naturopathic doctors.*
- 21 (5) *Licensed occupational therapists.*
- 22 (6) *Licensed speech-language pathologists.*
- 23 (7) *Licensed audiologists.*
- 24 (8) *Registered nurses.*
- 25 (9) *Licensed psychologists.*
- 26 (10) *Licensed physician assistants.*

27 ~~SEC. 4.~~

28 SEC. 8. No reimbursement is required by this act pursuant to  
 29 Section 6 of Article XIII B of the California Constitution because  
 30 the only costs that may be incurred by a local agency or school  
 31 district will be incurred because this act creates a new crime or  
 32 infraction, eliminates a crime or infraction, or changes the penalty  
 33 for a crime or infraction, within the meaning of Section 17556 of  
 34 the Government Code, or changes the definition of a crime within  
 35 the meaning of Section 6 of Article XIII B of the California  
 36 Constitution.